Supreme Court, U.S.
FILED
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No. 00-1089

IN THE
Supreme Court of the United States

TOYOTA MOTOR MANUFACTURING,
KENTUCKY, INC.,

Petitioner,

v.

ELLA WILLIAMS,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED JANUARY 5, 2001
CERTIORARI GRANTED APRIL 16, 2001

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UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 99-5234

ELLA WILLIAMS
Plaintiff-Appellant,

v.

TOYOTA MOTOR MANUFACTURING,
KENTUCKY, INC.
Defendant-Appellee.

DOCKET ENTRIES

DATE	FILINGS – PROCEEDINGS
2/24/99	Civil Case Docketed. Notice filed by Appellant Ella Williams. Transcript needed: n (ac)
4/5/99	PROOF BRIEF filed by Leslie Rosenbaum for Appellant Williams. Certificate of service date 4/2/99 Number of Pages: 45 [99-5234] (ac)
5/5/99	PROOF BRIEF filed by Jeffrey A. Savarise for Appellee Toyota Mtr Mfg KY. Certificate of service date 5/4/99. Number of Pages: 39. [99-5234] (ac)
5/20/99	PROOF REPLY BRIEF filed by Leslie Rosenbaum for Appellant Ella Williams. Certificate of service date 5/19/99 [99-5234] (ac)
5/28/99	APPENDIX filed by Leslie Rosenbaum for Appellant Ella Williams. Copies: 5. Certificate of service date 5/26/99 [99-5234] (ac)

6/7/99 FINAL BRIEF filed by Jeffrey A. Savarise for Appellee Toyota Mtr Mfg KY. Copies: 7. Certificate of service date 6/3/99. Number of pages: 41. [99-5234] (ac)

6/16/99 FINAL BRIEF filed by Leslie Rosenbaum for Appellant Ella Williams. Copies: 7. Certificate of service date 6/15/99 Number of Pages: 45. [99-5234] (ac)

6/16/99 FINAL REPLY BRIEF filed by Leslie Rosenbaum for Appellant Ella Williams. Copies: 7. Certificate of service date 6/15/99 Number of Pages: 17. [99-5234] (ac)

2/1/00 CAUSE ARGUED on 2/1/99 by Leslie Rosenbaum for Appellant Ella Williams, Jeffrey A. Savarise for Appellee Toyota Mtr Mfg KY before Judges Merritt, Boggs, Moore. [99-5234] (me)

2/7/00 CERTIFIED RECORD filed. Volumes include 1 Tr; 24 Dep; 10 Pl. [99-5234] (ac)

7/10/00 OPINION filed: The judgment of the district court as to the ruling on plaintiff's ADA claims is REVERSED and remanded for a trial on the merits and AFFIRMED as to the plaintiff's FMLA claim, decision for publication pursuant to local rule 206. [99-5234] Gilbert S. Merritt, Authoring Judge, Danny J. Boggs, Karen N. Moore, Circuit Judges. (Judge Boggs delivered a separate opinion concurring in part and dissenting in part) (ac)

7/10/00 JUDGMENT: REVERSED and remanded and AFFIRMED. (ac)

7/21/00 PETITION for en banc rehearing filed by Jeffrey A. Savarise for Appellee Toyota Mtr

Mfg KY. Certificate of service date 7/20/00. [99-5234] (blh)

7/24/00 ADDITIONAL PETITION for rehearing before original panel filed by Leslie Rosenbaum for Appellant Ella Williams. Certificate of service date 7/24/00. [99-5234] (ac)

8/29/00 AMENDED OPINION filed: It is ordered that the judgment of the district court as to the plaintiff's FMLA claim for wrongful termination is AFFIRMED and it is further ordered that the district court's ruling as to the plaintiff's ADA claim for failure to accommodate is REVERSED and remanded, decision for publication pursuant to local rule 206. [99-5234] Gilbert S. Merritt, Authoring Judge, Danny J. Boggs, Karen N. Moore, Circuit Judges. (Judge Boggs delivered a separate opinion concurring in part and dissenting in part) (ac)

8/29/00 AMENDED JUDGMENT: AFFIRMED: REVERSED and remanded. (ac)

8/29/00 LETTER SENT by blh to Jeffrey A. Savarise for Appellee Toyota Mtr Mfg KY, Leslie Rosenbaum for Appellant Ella Williams notifying that party is to advise the court whether petition for rehearing is to be withdrawn. If it is not, the appellee will have until 9/12/00 to file a memorandum of law supplementing its original petition. If the appellant wishes to seek en banc reconsideration, her petition is due by 9/12/00 [99-5234]. (blh)

9/12/00 Appellee RESPONSE filed advising the petition for rehearing en banc is not withdrawn; they believe a supplemental memorandum is unnecessary; they stand by the original petition. Response from Jeffrey A. Savarise for

	Appellee Toyota Mtr Mfg KY. Certificate of service date 9/11/00 [99-5234] (blh)
10/12/00	ORDER filed denying petition for en banc rehearing [2191408-1] filed by Jeffrey A. Savarise [99-5234]. Gilbert S. Merritt, Danny J. Boggs, Karen N. Moore, Circuit Judges. (blh)
10/20/00	MANDATE ISSUED with no cost taxed [99-5234] (ac)
10/26/00	ORDER filed recalling mandate. [99-5234] (ac)
10/26/00	ORDER filed denying petition for rehearing before original panel filed by Leslie Rosenbaum. [99-5234] Gilbert S. Merritt, Danny J. Boggs, Karen N. Moore, Circuit Judges. (ac)
11/3/00	MANDATE ISSUED with no cost taxed [99-5234] (ac)
1/11/01	U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellee Toyota Mtr Mfg KY. Filed in the Supreme Court on 01-05-01, Supreme Ct. case number: 00-1089. [99-5234] (swh)
4/18/01	U.S. Supreme Court letter filed granting petition for writ of certiorari [2286590-1] filed by Toyota Mtr Mfg KY and granting motion by National Association of Mfgs. to file amicus brief. [99-5234]. Filed in the Supreme Court on 04-16-01. (swh)

U.S. DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY (LEXINGTON)

CIVIL DOCKET FOR CASE #: 97-CV-135

ELLA WILLIAMS

Plaintiff,

v.

TOYOTA MOTOR MANUFACTURING, KENTUCKY, INC.

Defendant.

DOCKET ENTRIES

DATE	NO.	PROCEEDINGS
4/18/97	1	COMPLAINT (1 summons(es) issued) with copy, Fee Paid $150., Receipt No. 065924 (skv) [Entry date 04/21/97]
4/29/97	2	ANSWER by defendant Toyota Motor Mfg to COMPLAINT [1-1] (skv) [Entry date 04/30/97]
10/3/97	16	STIPULATION by parties deposition taken 6/27/97 in the Workers' Compensation proceeding styled Ella F. Williams v. Toyota Motor Manufacturing, Kentucky, Inc and Special Fund, Case No. 97-01035 is admitted in instant action as if taken in this action w/ COPY OF DEPOSITION

ATTACHED (skv) [Entry date 10/06/97] [Edit date 10/06/97]

10/3/97 17 DEPOSITION of ELLA FREDA WILLIAMS taken on the following date(s): 9/12/97 @ 9:10 a.m. by: Dft. (SEP. VOL.) (skv) [Entry date 10/06/97]

11/21/97 24 DEPOSITION of Mr. David Price taken on the following date(s): 11/6/97 @ 9:40 a.m. by: pltf. (SEP. VOL.) (skv) [Entry date 11/24/97]

12/15/97 29 MOTION by plaintiff Ella Williams to amend complaint w/ tendered amended complaint attached (skv) [Entry date 12/16/97]

12/30/97 32 BRIEF IN OPPOSITION by defendant Toyota Motor Mfg KY to plaintiff's motion to amend complaint [29-1] (skv) [Entry date 01/08/98]

1/14/98 48 ORDER by Judge Henry R. Wilhoit Jr.: 1) plaintiff's motion to amend complaint [29-1] SUSTAINED; 2) Clerk FILE tendered Amended Complaint as of date of entry of this Order (cc: all counsel) (skv)

1/14/98 49 AMENDED COMPLAINT [1-1] by plaintiff Ella Williams; jury demand (skv)

1/21/98 55 ANSWER by defendant Toyota Motor Mfg KY to AMENDED COMPLAINT [49-1] (skv) [Entry date 01/22/98]

4/30/98 99 MOTION by defendant Toyota Motor Mfg KY for summary judgment (seal) [Entry date 05/01/98]

4/30/98 100 MEMORANDUM by defendant Toyota Motor Mfg KY in support of motion for summary judgment [99-1] (seal) [Entry date 05/01/98]

4/30/98 101 APPENDIX LIST re: Toyota's motion for summary judgment (sep. vol.) (seal) [Entry date 05/01/98]

5/1/98 103 MOTION by plaintiff Ella Williams for partial summary judgment w/ attached memo in support (seal)

5/15/98 108 MEMORANDUM IN OPPOSITION by plaintiff Ella Williams to motion of Toyota Motor Manufacturing, Kentucky Inc. for summary judgment [99-1] (skv) [Entry date 05/18/98]

5/19/98 111 MEMORANDUM IN OPPOSITION by defendant Toyota Motor Mfg KY to plaintiff's motion for partial summary judgment [103-1] w/ exhibits placed in sep. vol. (skv) [Entry date 05/20/98]

5/28/98 115 REPLY by defendant Toyota Motor Mfg KY to Memorandum in opposition to motion dft's motion for summary judgment [108-1] (lgb) [Entry date 06/02/98]

6/1/98 117 REPLY by plaintiff Ella Williams to response to motion for partial summary judgment [103-1] (mst) [Entry date 06/02/98]

7/1/98	127	SUPPLEMENTAL BRIEF IN OPPOSITION by plaintiff Ella Williams to defendant's motion for summary judgment [99-1] (skv)
7/15/98	132	REPLY by defendant Toyota Motor Mfg KY to plaintiff's Supplemental brief in opposition to defendant's motion for summary judgment [99-1] (skv)
7/20/98	133	SUPPLEMENTAL MEMORANDUM IN OPPOSITION by defendant Toyota Motor Mfg KY to plaintiff's motion for partial summary judgment [103-1] (skv) [Entry date 07/21/98]
7/31/98	136	(REPLY) RESPONSE TO DEFENDANTS SUPPLEMENTAL MEMORANDUM by plaintiff Ella Williams to response to motion for partial summary judgment [103-1] (mst)
9/2/98	138	SUPPLEMENTAL MEMORANDUM by defendant Toyota Motor Mfg KY in support of motion for summary judgment [99-1] (skv) [Entry date 09/03/98]
9/8/98	140	MEMORANDUM IN OPPOSITION by plaintiff Ella Williams to defendant's Supplemental Memorandum in support of its motion for summary judgment [99-1] (skv)
1/5/99	156	SECOND SUPPLEMENTAL MEMORANDUM IN OPPOSITION by defendant Toyota Motor Mfg KY to plaintiff's motion for partial summary judgment [103-1] (skv) [Entry date 01/06/99]

1/26/99	158	MEMORANDUM & ORDER by Chief Judge Henry R. Wilhoit Jr: 1) dft's motion for summary judgment [99-1] GRANTED; 2) plaintiff's motion for partial summary judgment [103-1] denied as MOOT; 3) defendant's motions in limine [96-1] and [147-1] denied as MOOT; 4) action is dismissed with prejudice and shall be STRICKEN from docket; and 4) this is final and appealable and order (cc: all counsel) (seal) [Entry date 01/27/99] [Edit date 01/27/99]
1/27/99	159	JUDGMENT by Chief Judge Henry R. Wilhoit Jr: 1) Dft's motion for summary judgment GRANTED; 2) pltf's motion for partial summary judgment denied as MOOT; 3) dft's motions in limine denied as MOOT; 4) action dismissed with prejudice and stricken from docket; and 5) this is final and appealable order (cc: all counsel) (seal)
2/18/99	160	NOTICE OF APPEAL by plaintiff Ella Williams from Dist. Court decision [159-1], [158-2] (cc: all counsel) (mst) [Edit date 10/27/00]
10/23/00	164	MANDATE from 6CCA reversing and remanding the Decision of the District Court [Appeal [160-1] (mst)
10/27/00	165	CERTIFIED COPY of 6CCA Order: Mandate issued 10/20/00 is RECALLED. (mst)
11/6/00	166	MANDATE from 6CCA reversing and remanding the Decision of the District Court [Appeal [160-1] (mst)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION
CIVIL ACTION NO. 97-135

ELLA WILLIAMS

Plaintiff,

v.

TOYOTA MOTOR MANUFACTURING, KENTUCKY, INC.

Defendant.

The deposition of ELLA FREDA WILLIAMS was taken on behalf of the defendant before MARYBETH C. SOWARDS, Reporter and Notary Public in and for the State of Kentucky at Large, at the law offices of Greenebaum, Doll & McDonald located at 333 West Vine Street, Lexington, Kentucky, on Friday, September 12, 1997, commencing at the approximate hour of 9:10 a.m.

Said deposition was taken pursuant to notice previously filed, pursuant to the Federal Rules of Civil Procedure, in the above-styled action now pending before the United States District Court, Lexington division.

remember it as being 20 pounds.

Q 44 Do you recall a ten-pound frequent lifting maximum?

A No.

Q 45 Do you recall any frequent lifting limitations based on the doctor's restrictions?

A Yes, there was some.

Q 46 But you just don't remember what it was?

A I don't remember exactly how it is.

Q 47 Now, Ms. Williams, for the record, you developed your carpal tunnel conditions in 1991?

A Yes.

Q 48 And from 1992 to December of 1993, you worked in various modified duty jobs and you also spent a lot of time on medical leave of absence for the condition?

A I don't remember exactly how that goes. It's all in the file. It should be.

Q 49 Well, I'm not asking you to remember exactly. I'm just saying you did work—well, let me break it down. You worked on modified duty at some point during that two-year period?

A Yes.

Q 50 And you were on medical leaves of absence at some point during that two-year period?

A Yes.

Q 51 And at the time you returned to work in December of 1993, you were returning from a medical leave of absence?

A Yes.

Q 52 Can you recall at this time how long you had been off on a medical leave at that point?

A No.

Q 53 And I understand that it's kind of hard to remember, but do you think it was more than a month that you had been off?

A Yes.

Q 54 More than two months?

A Yes.

Q 55 More than six months?

A Yes.

Q 56 More than a year? Less than a year?

A I'm not sure on that, what the time was.

Q 57 So more than six months is about the best you can recall?

A Yes.

Q 58 Now at that time your carpal tunnel, bilateral carpal tunnel—and I guess for the record, bilateral simply means in both hands or both wrists; is that correct?

A Yes.

Q 59 At that time carpal tunnel didn't interfere or limit you in any way as far as walking, did it?

A No.

Q 60 Or seeing?

A No.

Q 61 It didn't affect your hearing?

A No.

Q 62 It didn't affect your speaking?

A No.

Q 63 Your breathing?

A No.

Q 64 Your ability to learn, read, those types of things?

A That's correct.

Q 65 And the job that you came back to in 1993 did involve some manual tasks, didn't it?

A Yes.

Q 66 So the impairment didn't substantially limit you in performing manual tasks?

A What I was brought back in on, no.

Q 67 Which was a manual task?

A Yes.

Q 68 And you were able to care for yourself as far as personal hygiene? I mean, you could get dressed in the morning?

A Yes.

Q 69 And brush your teeth, comb your hair?

A Yes.

Q 70 I guess you did a little bit of housework and a little bit of gardening at that time too?

A It was limited.

Q 71 But you were doing some?

A Yes.

Q 72 And you were able to sit and stand?

A Yes.

Q 73 The job, in fact, required you to stand, didn't it?

A Yes.

Q 74 Now within your restrictions you were able to do lifting; correct? I mean, I know that there was a limitation on it, but you were able to lift?

A I didn't do lifting on the job that I returned to.

Q 75 But you weren't restricted from doing all lifting, just the lifting to a certain weight limit; correct?

A That's correct.

Q 76 A weight limit that we can't recall right now, though?

A That's correct.

Q 77 And you were able to do reaching? You could reach as long as it wasn't, what, repetitive with twisting and pinching and so forth?

A Overextension I believe is the way that Dr. Kleinert looks at it.

Q 78 On a repetitive basis?

A True.

Q 79 So to casually reach out and do something, you could do that back in 1993?

A As long as it was nonrepetitive.

Q 80 Right. You said the job that you returned to you weren't required to lift. I don't want to get into a lot before 1993, but just very briefly the jobs you held up to that point—I guess you'd been at Toyota since about 1990, was it?

A Yes.

Q 81 Did they involve lifting, a lot of lifting?

A They varied.

Q 82 Did they involve lifting over 20 pounds, if you can recall?

A I don't know.

Q 83 Did you have many occasions to have to lift over 20 pounds in your home life, nonwork life?

A No.

Q 84 And that's both prior to 1993 and after 1993?

A That's correct.

Q 85 Now with respect to working in December of 1993, you came back to work at Toyota at that time; correct?

A Yes.

Q 86 So you were obviously able to do some work at Toyota then because they found a job for you.

A Yes.

Q 87 And you had worked at Toyota since August of 1990?

A That's correct.

Q 88 So I guess you had been there for about three years, some time on medical leave, but you were somewhat familiar with the jobs at Toyota?

A Yes.

Q 89 You had walked around the plant before, I assume?

A Oh, yes.

Q 90 I guess it's not sort of tunnel vision where when you work at Toyota you walk out to your line and those are the only jobs you've ever seen in the plant.

A. No.

Q 91 So you're somewhat familiar maybe not with the entire plant but at least in the general departments and so forth that are close to where you're working?

A Yes.

Q 92 There's many types of different production jobs at Toyota, aren't there?

A Yes.

Q 93 Now by virtue of the restrictions that you had, you couldn't do production jobs that required repetitive use of your hands or arms, vibrating tools, and some lifting limitations; is that correct, in 1993?

A Yes.

Q 94 So I guess essentially these restrictions prevented you from doing certain range of fast-paced repetitive motion work? Would that be safe to say?

A I'm not sure on that.

Q 95 Could you do most of the jobs that you were familiar with at Toyota at that point?

A No.

Q 96 Could you do jobs that didn't involve production line work, repetitive motion work?

A Yes.

Q 97 So you couldn't do the jobs that involved repetitive motion work where you were constantly using your hands, though, could you, in 1993?

A No.

Q 98 And could you think of any other class of jobs out there at Toyota that you couldn't do back in 1993,

based on those restrictions?

A I can't remember.

Q 99 So the only one that you can think of right now, then, would be the repetitive motion type where you're going to be using your hands constantly?

A Yes.

Q 100 And as I understand it, and I've been out there too, not all jobs are repetitive motion at Toyota; correct?

A Yes.

Q 101 Again staying with the 1993 return to work, the group you returned to—and I know this is sometimes confusing to me. As I understand it, group leaders, team leaders, team members oftentimes refer to jobs out there by different names than, I guess, they're officially called, so kind of bear with me a little bit. I'm going to ask you about—I guess the official name for the group that you returned to was body paint inspection operations?

A Yes.

Q 102 And you, I guess, refer to that, and probably everybody else out there refers to that, as QCIO body paint and paint inspection?

A Yes.

Q 103 They're one and the same, then?

A Yes.

Q 104 And as I understand it, there are four processes in that group; is that correct?

A Yes.

Q 105 And I'm going to go through the processes with you real quickly here, and again, I'm going to use their official name and then ask you if you know it by another name; okay?

A (Witness nods head affirmatively.) Yes.

Q 106 And the first process would be assembly paint. I think you refer to that as assembly?

A Yes.

Q 107 The second process would be paint second inspection, and I think you refer to that as paint inspection?

A Yes.

Q 108 The third would be shell body audit, and I think you refer to that as body shop inspection?

A Yes.

Q 109 And the fourth would be ED surface repair, and I think they refer to that as ED inspection?

A Yes.

Q 110 And those would be the four areas and four processes within the group that you returned to?

A Yes.

Q 111 And now these are all processes that

regularly go on out there; correct?

A Yes.

Q 112 Somebody somewhere is always doing one of them? It's not like you shut it down and you're not doing ED repair on Mondays, Tuesdays, and Wednesdays; right?

A That's correct.

Q 113 So there's a team member doing one of these processes every time that they're up and running?

A Yes.

Q 114 Now are you familiar with the concept of job rotation at Toyota?

A Yes.

Q 115 Could you explain a little bit for me what your understanding of job rotation is?

A Job rotation is learning and knowing the different jobs in the group, left upon the group leader or assistant manager's discretion to how many jobs in that group the team member is trained to do.

Q 116 Now you explained, I guess, the training aspect of it, but the actual rotation, doesn't Toyota try to rotate people on jobs at varying intervals of time so you don't have to do the same thing, for example, all day or all week or all month?

A Not always.

Q 117 But at least when you were there, was that

one of the goals, though, to be able to move people around so that they wouldn't have to do the same thing all the time?

A It originated that way.

Q 118 Now when you went to work in 1993—and I'm just going to refer to it as the group from now on; okay—what process were you assigned to?

A Second inspection, body paint inspection operation.

Q 119 Paint second inspection, or I guess we can call it paint inspection?

A That's correct.

Q 120 And what did that job involve?

A Visually inspecting the paint of the car.

Q 121 Is the car coming down a conveyor?

A Yes.

Q 122 Did you have to stand over it and look at it?

A You stand beside the car.

Q 123 From what distance?

A Eighteen inches.

Q 124 Do you have any sort of jewelers cloth or anything like that where you're checking anything to see if there's abnormalities in the paint finish?

A You wear white gloves on your hands.

Q 125 And then you rub—

A And you also wear a blue paint suit.

Q 126 And with the white gloves, do you touch the surface?

A Yes.

Q 127 How often do you have to do that?

A That is—customarily it's in the standardized work, each car.

Q 128 Each car is done?

A Yes.

Q 129 Now when you did that, did you have to make a circular motion—

A No.

Q 130 —sort of like you're checking for dust?

A No. You're not checking for dust.

Q 131 She's not going to be able to pick this up, but could you explain the motion with your hand for me?

A Back and forth.

Q 132 Back and forth?

A Yes.

Q 133 And how long did you have to train on this paint inspection job?

A I don't know.

Q 134 Now would you use both hands, or you wore a white glove on only one hand?

A Both. You wear white gloves on both.

Q 135 And you would go across the car, back and forth, with both the right hand and the left hand?

A I rotated arms.

Q 136 So the answer would be yes, then, you would do both?

A Yes.

Q 137 You've got a whole car coming across at this point?

A No.

Q 138 What actually is coming in front of you?

A You do half.

Q 139 Half of the entire shell?

A Yeah, it's just like you've cut the car in half.

Q 140 So somebody else is responsible for the other side?

A Supposedly, yes.

Q 141 Now where do you stand when you do this? I know you're standing next to the car. Are you beneath the car?

A No.

Q 142 Are you floor level with it?

A No.

Q 143 Where are you?

A They have an area built up to where you're

* * * * *

[Pages 24-25 omitted]

towards you?

A It comes down a conveyor. You are on a ramp.

Q 162 Did you have any problems doing that job?

A No.

Q 163 Now you were also eventually trained on the assembly paint process?

A Yes.

Q 164 Do you recall when that was?

A No.

Q 165 But you were completely trained?

A Yes.

Q 166 Able to do that process?

A Yes.

Q 167 What did that process involve?

A Assembly inspection. You checked for mutilation of the car.

Q 168 What's mutilation?

A Scratches, dents, chips, anything that may occur during the assembly process.

Q 169 Was this totally a visual inspection, or did you have to touch the car?

A At one time—it's changed. At one time you opened the doors and checked inside the doors. It's more visual after they rewrote standardized work.

Q 170 When was that; do you remember?

A No, I don't.

Q 171 So at one time you had to open up the doors. Was that the only actual physical contact that you had with the car was opening the door?

A Shutting the hood or shutting the deck lid, whichever side of the car you were on.

Q 172 The deck for us laypeople is the trunk?

A Trunk.

Q 173 And about how often would a car come by when you were doing this inspection?

A Every 54 seconds, and I don't know what the tach time they're on right now.

Q 174 But when you were on assembly, every 54 seconds you'd have to open a door, check, close a door, open a trunk or open a hood, depending upon which side?

A Yeah, whatever way. It don't run—assembly, to hold them to a 54-second tach time is pretty impossible because of problems throughout assembly. The line stops and starts a lot.

Q 175 Now these are Camrys back then; right?

A Yes.

Q 176 I'm not familiar with a Camry hood. Is it an automatic pop? I mean, do you just hit a button and the whole thing comes up?

A. No. The car comes to us with the hood

raised.

Q 177 Already raised?

A Yeah, just a few inches.

Q 178 So you have to lift it up, then?

A No. You close it.

Q 179 You don't have to lift up and check under it?

A You're not responsible for checking under the hood.

Q 180 And the doors are standard doors? You pull on them, or do you push in on the—

A You open them with your hand.

Q 181 Pull out?

A You're grasping.

Q 182 Grasp out?

A Uh-huh. (Affirmative)

Q 183 And those are the movements you would be doing when you're on assembly?

A Yes.

Q 184 And when it's running at optimal time, you'd be doing each of those—

A Yes.

Q 185 —every 54 seconds?

A Like I said, the time frame varies, but yes.

Q 186 So I guess up to conservatively 40 to 50 times an hour?

A Yes.

Q 187 Did you have to do any overhead work on the assembly process?

A No.

Q 188 Everything came to you at either, what, shoulder level or waist level?

A Shoulder level, below shoulder level.

Q 189 So you never had to raise your arms above your shoulders, then?

A No.

Q 190 Not even when you were closing the trunk, or did the trunk come the same way, opened just slightly?

A The trunk has a jig or whatever that's holding it. I don't know what they're called. They're not required to be called a jig in assembly. It has something holding it that you pull down.

Q 191 You had to hold onto it, then, obviously?

A You or your fellow team member, whichever, however it is, you close the trunk.

Q 192 And just so I understand, both of you—there's two people on each car. There's supposed to be, anyway?

A Yes.

Q 193 Both of you have to open doors, obviously, and I guess on four-door cars, you're going to open two

doors apiece?

A Till standardized work was changed, yes.

Q 194 And either you or the other team member is going to have the trunk, and the other one would have the hood?

A Yes.

Q 195 I don't know how the plant is set up with respect to the lines, but were you working on two-door cars or four-door cars or both?

A Most generally four-door.

Q 196 So in that 54 seconds, that tach time, you were opening two doors, closing two doors, and either doing a trunk or hood; is that right?

A Yes.

Q 197 Now you talked a couple of times about standardized work changing. What was the change in standardized work?

A We didn't deal with closing or opening the hoods. We also didn't check inside the doors.

Q 198 What did you do then? Was it just purely visual?

A It was outside body of the shell, shell body, outside shell body of the car.

Q 199 And that is just a visual inspection, or did you have to rub with gloves?

A That's visual inspection pretty much is what it is.

Q 200 No touching of the car?

A If you find something that you need to put your hands on and touch, such as a scratch, or if you question something that may be sitting on top of the paint, you touch.

Q 201 Now when you said standardized work changed, and I know it's kind of hard to remember dates and all, but do you recall about how long before you stopped working at Toyota, which would have been the end of 1996, the first part of 1997, do you remember how far or how long before that standardized work had changed?

A No.

Q 202 Do you recall if it was in 1996 anytime?

A Nō.

Q 203 Can you recall if it was in 1995 at anytime?

A I'm not sure.

Q 204 So it would do me no good to say '94, then?

A I'm not sure when they changed it.

Q 205 I understand. Were you able to do this assembly process, though?

A As long as I was on a weekly rotation.

Q 206 And that's both before and after the standardized work changed?

A Yes.

Q 207 How long did you train on that; do you recall?

A No.

Q 208 Now you mentioned weekly rotation. At that point you were rotating between paint inspection and assembly?

A Yes.

Q 209 And you did that, I guess, for a couple of years?

A Yes.

Q 210 Now you weren't the only team member in the group; right?

A That's correct.

Q 211 I guess there were, what, seven other team members besides yourself?

A I don't remember how many exactly.

Q 212 You had two team leaders? Do you recall that?

A Most of the time.

Q 213 And at least one group leader?

A Yes.

Q 214 Now were you ever told that Toyota wanted everyone, including you, to eventually be able to rotate through three processes?

* * * * *

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF WORKERS' CLAIMS
NO. 97-01035

ELLA F. WILLIAMS

Plaintiff,

-

v.

TOYOTA MOTOR MANUFACTURING, KENTUCKY, INC. AND SPECIAL FUND

Defendants.

DEPOSITION

DEPONENT:	ELLA F. WILLIAMS
DATE:	FRIDAY, JUNE 27, 1997
TIME:	9:00 A.M.
PLACE:	LAW OFFICES OF ROSENBAUM & ROSENBAUM SUITE 300 201 WEST SHORT STREET LEXINGTON, KENTUCKY

Q 206. Do you have any problems walking?

A No, sir, not really. My hip bothers me from time to time. But no, sir, I do not.

Q 207. Okay. How about your other basic functions, breathing and things like that, your basic—

A I have no problem with my breathing or any basics, other than the shoulders and my neck.

Q 208. Okay. Is your vision okay?

A Yes, sir, twenty/twenty.

Q 209. Hearing okay?

A To my knowledge, yes, sir.

Q 210. Okay. Personal hygiene, taking care of yourself, dressing yourself, are you able to do that?

A I—personal hygiene, yes, sir. Dressing, I get some help occasionally with my dressing. Raising my arms and sometimes getting dressed, I can't reach my arms like I need to anymore. I kinda get stiffened up sometimes, and I get some help there.

Q 211. Okay. Brush your teeth, for example?

A I do that, no problem.

Q 212. Okay. Wash your face?

A Yes, sir.

Q 213. And bathe yourself okay?

A Yes, sir.

Q 214. Okay. As far as your day-to-day activities, what kinds of things do you do during the day? How do you spend your time?

A I stay home. Flexeril, the Flexeril makes you drowsy, and I try to avoid any driving due to driving causes me pain. And Flexeril is a drug that slows your response to doing things.

Q 215. What do you—

A So at home, I try to keep—I have my children at home. And my husband does my soil for me, and I like flower gardening, reading. I don't do a—I stay home just pretty much. And my son plays baseball and stuff like that, and I just—my kids.

Q 216. Okay. Take me through an average day-to-day routine. You get up at what time, approximately?

A Well, I don't have an average day, so—my husband went back to nights. So the kids are out of school. So we've all pretty much—we've tried to go over to his time frame somewhat.

Q 217. What time do you usually get up in the morning?

A Some days it's seven, and some days I don't get

up till ten. It's whatever the kids—how my night's been asleep.

Q 218. Okay. And what do you usually do when you get up in the morning?

A When I get up in the morning, I fix breakfast. We'll have breakfast, and we'll talk, and everything's talked over what's gotta be done that day and that night. I do—I do my laundry from time to time, ever how—whatever how that works out, your laundry, your—the boys were given the job of—they take care of my dishwashing. And chores, things that need to be done around the house, just normal everyday things.

Q 219. Okay. Dusting and things like that?

A I don't dust.

Q 220. Well, describe—when you say normal day-to-day things around the house, I need—

A Normal things is pick up, a little more organization. I try to keep it organized. My kids help me a lot. They help a lot. They know mom's had a lot of trouble with her shoulders and her arms over the years, so they help a lot.

Q 221. Okay. Has that improved? Doing things around the house, has any of that improved? You said

your pain has lessened some. Have you gotten—

A Yes, sir.

Q 222. Okay. What areas have you seen improvement in around the house?

A I—as far as picking up and keeping the house organized and taken care of. Back when I first went out in December, there for several weeks, months, everything hurts. And if I do anything at all, it causes—my neck locks up. Sitting for a long period of time and not moving and stirring, it hurts. So, I mean, as far as around the house and getting out in the yard and the kids, I was driving and—driving still bothers me a lot. I'm lucky the fact that the ball field's within a mile of my house. But I frequent—in doing just taking care of—

Q 223. Normal, some of your normal everyday activity—

A Yeah.

Q 224. —You've seen improvement?

A Yeah.

Q 225. Okay. As far as your driving, are you able to drive?

A I drive—like I said, I do drive, but I keep it down to a very minimum. I can—for instance, my son got his two front permanent teeth knocked out. And I can drive and bring him to Lexington to the dentist. But by the time I get there, my neck muscles, I'm feeling the nerves tingling in my shoulder, and my neck tightens up, and I get into quite a bit of pain. And by the time I get back home, I'm ready for some pills and some alcohol.

Q 226. Were you able to drive yourself over today for the deposition?

A No, sir. My husband brought me.

Q 227. Okay. You live in Cynthiana?

A Just outside the city limits.

Q 228. Okay, and how far was that from the Georgetown plant, approximately?

A Something like thirteen, fifteen miles, something like that.

Q 229. Okay. As far as your general area where you have worked, has that generally been around the Lexington/Cynthiana area as far as the kind—where you've worked in the past?

A The only place I've ever worked since living in this area is Toyota.

* * * * *

EASTERN KENTUCKY COUNSELING AND REHABILITATION SERVICES

WILLIAM J. WEIKEL, Ph.D.
DIPLOMATE, AMERICAN BOARD OF VOCATIONAL EXPERTS
CERTIFIED MENTAL HEALTH COUNSELOR
NATIONAL CERTIFIED COUNSELOR

Vocational Report

Ella "Freda" Williams is a 38 year old female, born 4/28/59, who was seen on 12/5/97 at the request of her attorney, Leslie Rosenbaum, for the purpose of providing a vocational report. Prior to meeting with Ms. Williams, I was provided with various medical reports.

Dr. Kleinert (5/4/92) suggested that Ms. Williams avoid overhead work, constant repetitive use of the hands and arms for flexion or extension and vibratory tools. On 11/21/96, he released Ms. Williams to return to alternative duty as of 11/22/96, with restrictions to light work, to avoid constant/repetitive static use of the hands, vibratory tools and overhead work. Previously, Ms. Williams had a bilateral carpal tunnel release that Dr. Dimar (12/17/96) said had "resolved completely." He noted a minor disc bulge at C5-6 and C6-7 and probable bursitis of the rotator cuff with bilateral tenderness, right greater than the left. The MRI reports of 12/27/96 of the right shoulder show extensive peritendinitis inflammation. Dr. Smith (2/19/97) noted parascapular symptoms, myofascial pain and rotator cuff tendinitis. On 7/2/97, he restricted Ms. Williams from repetitive work, production work and lifting above shoulder level. Later additions (7/15/97) were for no light industry/assembly line work and no significant use of the arms for repetitive tasks.

Ms. Williams drove to my Morehead office noting an increase in neck and right shoulder pain. She usually averages about 20 miles of driving per week.

Ms. Williams completed the tenth grade. She earned a GED and has about two and one-half years of college work at Western Kentucky University.

On the Wide Range Achievement Test, R-2, Ms. Williams scored at the beginning of the ninth grade level (13th percentile) for reading and at the beginning of the tenth grade level (37th percentile) for arithmetic.

Ms. Williams notes a gradual onset of symptoms. She last worked about 12/6/96 and has not worked since that date.

Ms. Williams ranks her current problems as:

1. Right shoulder pain that began about the fall of 1996. She gets trigger point injections from Dr. Smith and wears a vest-like garment that fastens up the front, plus a "sports" bra. She has attended physical therapy, but recently stopped due to her son's medical problems. She takes Flexeril, Prosac, and Vistaril and uses heat and ice packs on the shoulder.

2. Neck pain.

3. Nervous problems with depression, crying spells and short temper. She reports that she wants to stay at home and has had some suicidal thoughts. She goes to counseling with Dr. Martha Wetter and also sees Dr. Scott Lance and takes the medication noted above.

4. Sleep problems improved with Vistaril so she now averages about six hours.

5. IBS. This started about 1995, but has improved with treatment at the Mayo Clinic.

6. Ms. Williams notes that her carpal tunnel was resolved with successful surgery and treatment, although she still has permanent restrictions related to this condition.

Ms. Williams denies the use of tobacco products. She notes some prior problems with alcohol, but states that she has not had a drink in two months.

Ms. Williams estimates that she can sit without problem; stand without problem; walk with occasional problems due to occasional hip pain; and lift only eight pounds. She can bend and stoop without problem.

Ms. Williams lives with her husband of 11 years. She has a grown daughter (age 19) and children ages 13, 10 and 8 still at home. She does some housework with help from the children, but does not move furniture. She vacuums with pain and "seldom" dusts. Ms. Williams avoids sweeping, but does cook, make beds and do laundry. She has quit dancing and most gardening, but tends her flowers. She occasionally attends church, but used to go twice a week. Ms. Williams plays less with the children.

For the purpose of this report, sedentary work is defined as lifting ten pounds maximum and occasionally lifting and/or carrying articles such as dockets, ledgers and small tools. Although a sedentary job primarily involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Sedentary work frequently involves sitting about six hours in an eight hour day.

Light work involves lifting of 20 pounds maximum with frequent lifting and/or carrying of objects weighing up to ten pounds. Even though the weight lifted may be a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or sitting most of the time with a degree of pushing or pulling of arm and/or leg controls.

Medium work is Lifting 50 pounds maximum and/or carrying of objects weighing up to 25 pounds.

Heavy work is lifting 100 pounds maximum with frequent lifting or carrying of up to 50 pounds and very heavy work is lifting objects in excess of 100 pounds or carrying of objects of 50 pounds or more.

Unskilled work can be learned in any time from a short demonstration up to and including 30 days. Semi-skilled work requires from one to six months of training. Skilled work takes from six months to several years to lean.

Ms. Williams' work history follows:

8/13/90 - 12/6/96 Toyota. From about 1990 to 12/93, Ms. Williams was a team member in the paint shop. She did mostly light, unskilled jobs preparing cars to be painted, putting on masking tape, applying primer and some computer keyboarding. She also did some inspecting in the paint shop. Next, she was moved to a power train assembly job using pneumatic tools. She developed carpal tunnel on this assembly job which was treated by Dr. Kleinert. Next, from 12/93 to 10/96, she was moved to an inspector and assembly/body paint inspector. As an inspector, she visually inspected paint jobs. Ms. Williams stood all day in this light job and did some bending, stooping and crouching. They would measure and mark defects and return them on the line. They rotated sides of the car. In the latter job, she inspected the finished car including bumpers, mirrors, paint, etc. She reports that she did okay on these jobs. Next, from 10/96 on, she was moved to the body shop where about every other week she rotated to a pre-paint, raw metal job where she wet a sponge with highlight oil and wiped down a side of a car and inspected it for flaws. She had problems doing this job. It was light and semiskilled. At Toyota, she was earning about $700.00 per week.

Prior to 1990—Ms. Williams worked on and off in 1986-1987 as a light, unskilled sales clerk for Sears and as a light, unskilled binder for Brown's Print Company (1985-1986). She was a housewife and mother from the 1970's to about 1985. She worked as a sedentary, unskilled seamstress at a sewing factory in the early 1970's.

If I assume that Dr. Kleinert is correct, Ms. Williams has a loss of access to the labor market of about 50% to 55%, which is significantly more than she had in 1992.

Dr. Smith's restrictions are similar, but I do not believe that he has yet released Ms. Williams to return to work.

It seems to me that after Ms. Williams was successfully treated for carpal tunnel, she returned to work at a job she could do and performed that job for almost three years. When she was moved to a new job, a job that required repetitive motion, problems developed with the shoulder and neck. My opinion is that she could return to the paint inspection job at Toyota (as she did from 12/93 to 10/96) if these jobs were available to her.

Ms. Williams has lost the ability to perform heavier jobs and also those light and sedentary jobs calling for repetitive use of the upper extremities and/or overhead work.

If Ms. Williams is unable to return to her customary work at Toyota, I would expect a significant loss of wages throughout her lifetime.

/s/ 12/12/97

William J. Weikel, Ph.D. Date

DICTATED BY DR. WEIKEL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION
CASE NO.: 97135

ELLA F. WILLIAMS

Plaintiff.

v.

TOYOTA MOTOR MANUFACTURING, KENTUCKY, INC.

Defendant.

The deposition of DR. DAVID PRICE was taken on behalf of the Plaintiff, before Cindy J. Shakley, a Court Reporter and Notary Public in and for the State of Kentucky at Large, at the Toyota Motor Manufacturing Plant located at 1001 Cherry Blossom Way in Georgetown, Kentucky on Thursday, November 6, 1997 at the hour of 9:40 a.m. Said deposition was taken both stenographically and by videotaping means for all purposes as permitted by the Federal Rules of Civil Procedure.

CINDY J. SHAKLEY—Professional Reporter
3405 Samford Court
Lexington, Kentucky 40515
Phone—(606) 272-3129
Fax—(606) 245-5255

restriction being written. You come down the page, it's either work-related or not work-related, I checked work-related in this instance. Restrictions are listed under that and they're either temporary or indefinite, and I've checked temporary. And it applies to all work or certain hours of work, in this instance I checked all work. And then I came down under "Comments" and wrote out three restrictions or three descriptive restrictions for the group leader to follow.

Q And will you tell me what those were.

A Well, number one and not related to this visit, but I wrote these down since they were permanent restrictions of four years standing, those permanent restrictions said, "No overhead work, no vibratory tools, constant/repetitive use both hands/arms as in flexion/extension of the elbows and wrists. And 20 pound lifting and 10 pound carrying." Which meant that she was not to lift more than 10 pounds or to have a sustained carrying activity of more than 10 pounds.

Q Okay. And then you've got "Current restrictions."

A Those are the restrictions that

were written for her neck and shoulders, primarily.

Q Okay.

A And they say, "No above chest level, extended reach, or repetitive rotary or lateral movements of the head/neck."

* * * * *

[46]

[Exhibit # 2]

LOUISVILLE HAND SURGERY

One Medical Center Plaza, Suite 700
225 Abraham Flexner Way
Louisville, Kentucky 40202
(502) 561-4263, 1-800-477-4263
Fax Number (502) 561-4288

Patient: Ella Williams

Return to work: As Available

Work Restrictions

(If suitable work is not available, patient should remain off work until next office visit.)

☐ Sedentary work: Lifting 10 pounds maximum and occasionally lifting or carrying articles up to 5 pounds

☒ Light work: Lifting 20 pounds maximum with frequent lifting or carrying objects weighing up to 10 pounds

☐ Medium work: Lifting up to 50 pounds maximum with frequent lifting or carrying objects up to 25 pounds

Avoid constant repetitive use of both hand(s) and arm(s)

_____ pushing/pulling

_____ pinching/gripping

__X__ flexion/extension of wrist/elbow

☒ No overhead work (keep hands below heart level)

☒ No use of vibratory (pneumatic) tools

☐ No climbing (avoid unprotected heights)

☐ Strictly one-handed work (keep injured hand clean and dry)

☐ Primary one-handed work with injured hand assisting on light tasks

☐ Avoid exposure to marked temperature changes (extremes of hot and cold)

Duration of work restrictions permanent

Comments

/s/ M.D.

James M. Kleinert

5/4/92 Date